



August 26, 1999

Mr. John Steiner
Assistant City Attorney
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-2413

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126827.

The City of Austin (the "city") received a request for "all Needs Analyses prepared by RAM Communications Consultants, Inc." You state that most of the requested information will be made available to the requestor. You seek to withhold certain portions of the analyses pursuant to sections 552.104 and 552.108 of the Government Code.

Section 552.104 of the Government Code protects from required public disclosure "information that, if released, would give advantage to a competitor or bidder." The purpose of section 552.104 is to protect the government's interests when it is involved in commercial transactions. For example, section 552.104 is generally invoked to protect information pertaining to competitive bidding situations. *See, e.g.,* Open Records Decision No. 463 (1987). In these situations, the exception protects the government's interests in obtaining the most favorable proposal terms possible by denying access to certain information prior to the award of a contract.

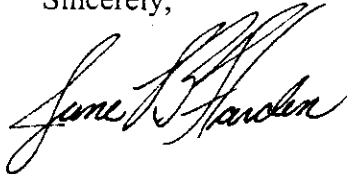
Based on your representation that the city "is currently seeking proposals for [sic] from qualified providers to provide, install, customize, and support a regional trunk radio system covering the Austin-travis [sic] county [sic] metropolitan area," we agree that the city may withhold the information you have marked as coming within the protection of section 552.104. Release of this information during the time that competitors may clarify, modify, or withdraw their proposals could result in an advantage to the other competitors for the contract or damage the city's ability to obtain truly competitive bids.

Section 552.108 of the Government Code excepts from required public disclosure information held by a law enforcement agency that deals with the detection, investigation, or prosecution of crime and internal records or notations of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution, but only if release of the information would interfere with the detection, investigation, or prosecution of crime. You seek to withhold other information that you have marked pursuant to section 552.108 because the information "describe[s] equipment locations, frequencies, and other technical specifications that a knowledgeable person could use to interfere with, disrupt, or disable law enforcement communications."

We agree that the information you seek to withhold is excepted from public disclosure pursuant to section 552.108. The city must release the remaining information from the marked documents.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, appearing to read "June B. Harden".

June B. Harden
Assistant Attorney General
Open Records Division

JBH/RWP/nc

Ref: ID# 126827

Encl: Submitted documents

cc: Mr. Michael D. Bryant
9600 Great Hills Trail, Suite 200E
Austin, Texas 78759
(w/o enclosures)